

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Benjamin A. Tober et al. Confirmation No.: 3607
Application No.: 10/679,938 Art Unit: 2452
Filed: October 6, 2003 Examiner: Hoang
Title: MANAGING RESOURCES FOR IP NETWORKING

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR
RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R.
§§ 1.702-1.705**

Dear Madam:

The Notice of Allowance mailed on June 3, 2009 for the application referenced above recites a 441 day patent term adjustment. Applicants believe that the application is entitled to more than 441 days of term adjustment, and hereby request reconsideration of the patent term adjustment as follows.

Applicants believe the total patent term adjustment under 37 C.F.R. §§ 1.702-1.704 should be the total of:

(1) 773 days under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), for the delay in issuing a first office action after December 6, 2004 (14 months from the filing date) until January 18, 2007 (date the first office action was mailed); and

(2) 384 days under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the Patent Office delay in issuing the patent after October 6, 2006 until the filing of the RCE on October 25, 2007.

The periods (1) and (2) overlap by 104 days. (37 C.F.R. § 1.703(f). *See Wyeth v. Dudas*, 88 U.S.P.Q.2d 1538 (D.D.C. 2008). Applicant delay totaled 332 days. Thus, the total adjustment based on (1) and (2) above would be 721 days.

The additional days of patent term adjustment are requested under 37 C.F.R. §§ 1.702(b) and 1.703(b) for the following reason.

37 C.F.R. 1.702(b) states:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C.

111(a)

The instant application was filed under 35 U.S.C. § 111(a) on October 6, 2003 and therefore should have issued by October 6, 2006.

37 C.F.R. § 1.703 states in pertinent part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) ... and ending on the date a patent was issued

Therefore, the relevant period of delay in issuing the patent began on October 6, 2006 and our calculations show that the application should receive an additional 280 day term adjustment, for a total of 721 days.

In accordance with 37 C.F.R. 1.18(e), please charge the \$200.00 fee to our Deposit Account No. 08-0219. The Director is hereby authorized to charge any deficiency in the fees filed, asserted

to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 08-0219, under Order No. 111244.150US2

Respectfully submitted,

Dated: 7-21-09



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